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10/553,411	10/17/2005	Martin Bossert	1454.1629	3710
21171 7590 05/26/2009 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER				
HO, HUY C				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/553,411

## Applicant(s)

BOSSERT ET AL.

## Examiner

HUY C. HO

## Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see Pre-Brief Conference request, filed 01/15/2009, with respect to the rejection(s) of claim(s) 9-20 under reference Sugar et al. (US 6,785,520) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sugar et al. (US 6,785,520) and Sato et al. (US 7,190,689) as below.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugar et al. (US 6,785,520) and further in view of Sato et al. (US 7,190,689).

As to claim 9, (Previously Presented) Sugar et al. disclose a method of transmitting data by radio, comprising:

using a plurality of subcarriers of a frequency band and a plurality of antennas for transmission such that each antenna transmits data using the plurality of the subcarriers (Fig 1, column 2 line 34 - column 4 line 22);

dividing data for transmission into a plurality of elements such that the number of data elements corresponds to the number of subcarriers (Fig 8, column 7, lines 20-51);

for each antenna, assigning each element to a subcarrier for transmission, such that for at least two antennas and at least one subcarrier, different elements are assigned to said one subcarrier (Fig 8, column 7, lines 20-51); and

before performing an OFDM modulation for each antenna, multiplying each element by an antenna-specific and an element-specific factor (Fig 8, column 7, lines 20-51).

Sugar does not show re-arrangement or reordering of elements of a signal. Sato teaches retransmission control method and system for transmitting data sequences by radio using OFDM and teaches reordering of data sequence of a time signal (see Sato, col 3 lines 50-67, col 4 lines 1-20, col 13 lines 35-67, col 14 lines 1-38), therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the teachings of Sugar and combining teachings of Sato of a transmitting control system used in OFDM for reordering or rearranging the data sequence of a time signal produced by OFDM modulation, so as to improve the retransmission control using the OFDM technique with multi carriers being employing for time signals, as taught by Sato (see Sato, col 1 lines 15-67, col 2 lines 1-40).

As to claim 13, (Previously Presented) Sugar et al. disclose a method of transmitting data by radio, comprising:

using a plurality of subcarriers of a frequency band and a plurality of antennas for transmission such that each antenna transmits data using the plurality of the subcarriers (Fig 1, column 2 line 34 - column 4 line 22);

dividing data for transmission into a plurality of data elements such that the number of data elements corresponds to the number of subcarriers (Fig 8, column 7, lines 20-51);

for each antenna, assigning each element to a subcarrier for transmission, such that for at least two antennas and at least one subcarrier, different elements are assigned to said one subcarrier (Fig 8, column 7, lines 20-51);

performing an OFDM modulation for each antenna to produce timing sequences of time-dependent signals (Fig 8, column 7, lines 20-51 ); and

for at least one antenna, rearranging the order of the time-dependent signals after OFDM modulation (Fig 8, column 7, lines 20-51).

Sugar does not show re-arrangement or reordering of elements of a signal. Sato teaches retransmission control method and system for transmitting data sequences by radio using OFDM and teaches reordering of data sequence of a time signal (see Sato, col 3 lines 50-67, col 4 lines 1-20, col 13 lines 35-67, col 14 lines 1-38), therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the teachings of Sugar and combining teachings of Sato of a transmitting control system used in OFDM for reordering or rearranging the data sequence of a time signal produced by OFDM modulation, so as to improve the retransmission control using the OFDM technique with multi carriers being employing for time signals, as taught by Sato (see Sato, col 1 lines 15-67, col 2 lines 1-40).

As to claim 20, (Previously Presented) Sugar et al. disclose a transmitter (Fig 8) to transmit data by radio using a plurality of subcarriers of a frequency band and a plurality of antennas for transmission such that each antenna transmits data using the plurality of subcarriers (Fig 8, column 7, lines 20-51), comprising:

division means (Fig 8, column 7, lines 20-51) for dividing the data into a plurality of elements such that the number of elements corresponds with the number of subcarriers; and

an OFDM modulator (Fig 8, column 7, lines 20-51) to perform OFDM modulation for each antenna to produce time-dependent signals;

wherein the transmitter comprises either:

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multiplication means (Fig 8, label 510) for multiplying each element for each antenna by an antenna-specific and element-specific factor before OFDM modulation (OFDM), or rearrangement means (Fig 8, column 7, lines 20-51) for rearranging the order of the time-dependent signals after OFDM modulation.

Sugar does not show re-arrangement or reordering of elements of a signal. Sato teaches retransmission control method and system for transmitting data sequences by radio using OFDM and teaches reordering of data sequence of a time signal (see Sato, col 3 lines 50-67, col 4 lines 1-20, col 13 lines 35-67, col 14 lines 1-38), therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the teachings of Sugar and combining teachings of Sato of a transmitting control system used in OFDM for reordering or rearranging the data sequence of a time signal produced by OFDM modulation, so as to improve the retransmission control using the OFDM technique with multi carriers being employing for time signals, as taught by Sato (see Sato, col 1 lines 15-67, col 2 lines 1-40).

As to claim 10, (Previously Presented) Sugar, as modified by Sato, further discloses wherein the factor is a complex or real number, the absolute value of the factor being 1 (col 6 lines 5-60, col 10 lines 60-67).

As to claim 11, (Previously Presented) Sugar, as modified by Sato, further discloses wherein for at least two antennas a common pattern is used to assign each element to a corresponding subcarrier (Fig 8, column 7, lines 20-51).

As to claim 12, (Previously Presented) Sugar, as modified by Sato, further discloses wherein the common pattern is a cyclic permutation (Fig 8, column 7, lines 20-51).

As to claim 14, (Currently Amended) Sugar, as modified by Sato, further discloses wherein for at least two antennas, the order is rearranged in accordance with a rearrangement common pattern (Fig 8, column 7, lines 20-51).

As to claim 15, (Currently Amended) Sugar, as modified by Sato, further discloses wherein the rearrangement common pattern is a cyclic permutation (Fig 8, column 7, lines 20-51).

As to claim 16, (Currently Amended) Sugar, as modified by Sato, further discloses wherein for

at least two antennas an assignment common pattern is used to assign each element to a corresponding subcarrier (Fig 8, column 7, lines 20-51).

As to claim 17, (Currently Amended) Sugar, as modified by Sato, further discloses wherein the common pattern is a cyclic permutation (Fig 8, column 7, lines 20-51).

As to claim 18, (Previously Presented) Sugar, as modified by Sato, further discloses wherein for at least two antennas a common pattern is used to assign each element to a corresponding subcarrier (Fig 8, column 7, lines 20-51).

As to claim 19, (Previously Presented) Sugar, as modified by Sato, further discloses wherein the common pattern is a cyclic permutation (Fig 8, column 7, lines 20-51).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY C. HO whose telephone number is (571)270-1108. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huy C Ho/  
Examiner, Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617